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5 Attorney for Defendant Carol-Ann Tognazzini
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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION
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14 VESTA STRATEGIES, LLC,

15 Plaintiff,

16 v.

17 ROBERT E. ESTUPINIAN, GINNEY
18 ESTUPINIAN, MUTUAL VISION, LLC,
19 MILLENNIUM REALTY GROUP,
VESTA REVERSE 100, LLC, VESTA
20 CAPITAL ADVISORS, LLC, CAROL-
ANN TOGNAZZINI, EDMUNDO
21 ESTUPINIAN, and HAYDEE
ESTUPINIAN;

22 Defendants.
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Case No. C 07-06216 JW RS

AFFIDAVIT OF DAVID L. OLSON IN
SUPPORT OF MOTION FOR
WITHDRAWAL AND SUBSTITUTION OF
COUNSEL

Date: June 23, 2008
Time: 9:00 a.m.
Dept: Room 8, 4th Floor, SJ
Judge: James Ware

25 1. I, DAVID L. OLSON, am the attorney of record for Defendant, Counter-Claimant
26 and Third Party Plaintiff CAROL-ANN TOGNAZZINI ("Tognazzini") in this action;

27 2. Pursuant to a written Attorney-Client Fee Contract ("Fee Agreement"), I agreed to
28 represent Defendant Carol-Ann Tognazzini in the above captioned matter. As part of the terms of

1 said Fee Agreement, Tognazzini and other individuals agreed to pay the fees and costs incurred in
2 her representation. In reliance thereon, I appeared as her attorney of record on March 4, 2008, when
3 I filed her Answer to the Complaint and a Counter-Claim and Third Party Complaint.

4 3. Prior to and since that date, I have worked actively on her behalf, including recently
5 participating in the meet and confer conference between counsel concerning the Joint Case
6 Management Conference Statement, preparation of the Initial Disclosure Statement and
7 Certification of Interested Parties. On or about April 8, 2008, I was advised that the other
8 individuals were unable and/or unwilling to honor the Fee Agreement and would not pay my fees.
9 Defendant Tognazzini has also refused to pay my fees and has stated that she will not pay for the
10 legal services I may render on her behalf.

11 4. Defendant Tognazzini's failure and/or reluctance to authorize necessary and ordinary
12 activities on her behalf has rendered it unreasonably difficult for me to carry out this employment
13 and the prosecution of this matter on her behalf effectively. As a result, I advised her that I would
14 be forced to file a motion to withdraw as her attorney of record.

15 5. I have advised also her to find other counsel to represent her in this matter, but she
16 has not committed to obtaining other counsel and may in fact, despite my strong objections, attempt
17 to represent herself in this matter.

18 6. Defendant Tognazzini has consented to my substitution and withdrawal as her
19 attorney of record as evidenced by the written Consent of Carol-Ann Tognazzini to Substitution and
20 Withdrawal of Counsel filed herewith.

21 7. Because revealing the facts and details on which this motion is based would involve
22 disclosure of client confidences, I hereby represent and certify to the court that good grounds for
23 withdrawal exist under one or more of the grounds specified in California Code of Professional
24 Responsibility, Rule 3-700 (C) (1) and (2).

25 8. If the court insists on a further factual showing as a condition of granting this motion,
26 I will supply the court with an affidavit that is sealed and shown only to the client and the court or
27 will testify in chambers in a hearing attended only by the court, the client, myself, and the court
28 reporter, with the transcript to be sealed until further order of the court, or whatever other method is
acceptable to the court that will not breach client confidences.

1 9. I have served Defendant Carol Ann Tognazzini with a copy of this motion by mailing
2 and faxing the motion papers to her at her current residence address and have discussed this motion
3 with her, explained her options and urged her to find another attorney, rather than appearing Pro Se
4 in this matter.

5 I declare the foregoing to be true and correct under penalty of perjury under the laws of
6 the United States of America and the State of California.

7 Dated: April 25, 2008

A handwritten signature in black ink, consisting of a stylized 'D' followed by a series of loops and a horizontal line extending to the right.

8 David L Olson
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